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June 16, 2003

To: Supervisor Yvonne Brathwaite Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

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MOTION TO AMEND AB 1395 (LOWENTHAL) AND TO SUPPORT SB 892 (MURRAY) -- PUBLIC SCHOOL RESTROOM FACILITY STANDARDS AND INSPECTION (ITEM NO. 6, AGENDA OF JUNE 17, 2003)

Item No. 6 on the June 17, 2003 Agenda is a motion by Supervisor Antonovich to 1) seek an amendment to AB 1395 (Lowenthal) to establish enforcement authority for local health department agencies to provide annual routine inspections of public school restrooms and to recover inspection costs from the public schools or by specific State appropriations, and 2) support SB 892 (Murray). This item was continued from the meetings of May 13, 2003, May 20, 2003, and June 3, 2003. For your information, AB 1124 (Nunez) is another bill which addresses public school restroom maintenance and repair standards. It is also described below.

AB 1395 (Lowenthal)

AB 1395 failed passage from the Assembly Appropriations Committee's Suspense File on May 28, 2003.

AB 1395 would have required the governing board of every school district to develop a Restroom Improvement and Maintenance Plan by January 1, 2005 to address the problems associated with school restroom facilities and to ensure that minimum health standards are met in every restroom facility in the school district. Development of the restroom plan would have been required to include participation of the governing board members, school administrators, teachers, pupils, parents or guardians, and classified school staff. The plan would have addressed openness, cleanliness, repair, maintenance, and safety of restrooms in the district.

AB 1395 was amended on May 14, 2003 to require the governing board of a school district to report, at designated school board meetings and on a biannual basis, on the

district's progress in implementing its Restroom Facilities Improvement and Maintenance Plan, instead of including this information in the School Accountability Report Card. Because the School Accountability Report Card was established by Proposition 98, "The Classroom Instructional Improvement and Accountability Act of 1998," would have required a 2/3 vote of the Legislature to change the provision.

AB 1395 was sponsored by the author and supported by the California Teachers Association, the California Medical Association and Californians for Justice. There was no registered opposition.

SB 892 (Murray)

As amended on June 4, 2003, SB 892 requires every public school, as a condition of receipt of apportionments from the State School fund, to keep restroom facilities open at all times during school hours and to ensure that they are regularly maintained, cleaned, fully operational, and stocked with soap and paper supplies. A previous version of the bill also would have required local health departments to develop a plan for regular inspections of school restroom facilities and authorized school pupils, parents and employees to request the health department to conduct an inspection of any school restroom.

The California State Association of Counties (CSAC) opposed SB 892 prior to the removal of the mandate that county public health agencies regularly inspect public school restrooms. CSAC noted that public health resources are currently stretched very thin and local health departments could not assume the new inspection responsibilities without compromising their ability to protect the public's health against communicable disease and other public health threats. CSAC indicated that inspection and correction programs administered by school districts are a more appropriate approach to accomplishing the goals of the bill.

Senate Education Committee staff indicated in a recent Committee report that some aspects of SB 892 do not appear to be operationally feasible. For example, the requirement that every restroom facility be open, fully stocked and operational during school hours may not be possible if a plumbing problem develops that requires days to repair, or if a restroom is vandalized over a weekend it is unlikely that it would be fully operational on Monday morning. A recent Senate Floor Analysis notes that enactment of this bill is likely to result in a claim that it creates a State mandated local program. Should the Commission on State Mandates agree, the State will be required to pay claims for costs incurred by all school districts to maintain safe and clean restrooms.

SB 892 is sponsored by the author and it has no registered support. CSAC dropped its opposition following the May 14, 2003 amendment which eliminated mandated inspections by local health departments. SB 892 passed the Senate Floor on June 5, 2003 on a vote of 39 to 0.

AB 1124 (Nunez)

As amended on April 10, 2003, AB 1124 would require that, as a first priority, school districts use maintenance funding to ensure that restroom facilities for pupils are functional and that they meet State and local hygiene standards generally applicable to public restrooms, except for expenditures needed to address imminent risks to health or safety. The coauthors of AB 1124 include Assembly Member Lowenthal, 35 other members of the Assembly, and Senator Gloria Romero. It is supported by the California Association of Student Councils, California Federation of Teachers, California Medical Association, California School Employees Association, California State PTA, and the California Teachers Association. There is no registered opposition. AB 1124 passed the Assembly Floor on April 24, 2003 on a vote of 51 to 24, and passed the Senate Education Committee on June 11, 2003 on a vote of 7 to 2. It now awaits a hearing in the Senate Health and Human Services Committee.

State Mandate Reimbursement

Under the California State Constitution, the State is not required to reimburse a local government for the costs to implement a Legislative mandate requested by that government. Bills which contain costs over \$150,000 are routinely placed on fiscal committee suspense files to be considered in the context of the State budget outlook. As previously noted, AB 1395 died on the Assembly Appropriations Committee's Suspense File. Should the County request that SB 892 be amended to authorize local health department agencies to provide inspections of public school restrooms, it is likely that the County would not succeed in obtaining State reimbursement for inspection costs.

Recommendation

The Department of Health Services (DHS) indicates that providing annual routine inspections of public school restrooms would result in annual County costs of \$252,000. As currently drafted, SB 892 does not mandate local health departments to inspect public school restroom facilities. **In the absence of funding to fully reimburse inspection costs, DHS recommends that the County support SB 892 as currently drafted, and we concur.**

DEJ:GK
MAL:MS:lm

c: Executive Officer, Board of Supervisors
County Counsel
Department of Health Services